

BOARD OF APPEALS CASE NO. 5198

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BEFORE THE

APPLICANT: Robert Chassereau

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ZONING HEARING EXAMINER

REQUEST: Variances to construct a 6 foot high fence and permit an existing shed within the required setbacks; 501 Scholar Court, Edgewood

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 11/28/01 & 12/5/01

HEARING DATE: January 7, 2002

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Record: 11/30/01 & 12/7/01

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Robert A. Chassereau, is seeking a variance, pursuant to Sections 267-26C(4), 267-26C(6) and 267-36B, Table VI, of the Harford County Code, to allow an existing shed within the required 25 foot front yard setback and within a recorded easement, and a variance pursuant to Section 267-24B(1), to construct a fence higher than 4 feet (6 feet requested) in an R3 Urban Residential District.

The subject parcel is located at 501 Scholar Court within the Scholar Woods subdivision and is more particularly identified on Tax Map 66, Grid 3B, Parcel 506. The parcel consists of 0.133± acres, is zoned R3/Urban Residential District and is entirely within the First Election District.

The Applicant, Robert Chassereau, appeared and testified that he owns the subject parcel. The lot is a corner yard that faces Scholar Court but backs to Willoughby Beach Road. His house is rather small and has no basement. The area of the yard to the rear of the home is twenty feet square and is very swampy. There is an existing shed that is 12 feet by 14 feet in dimension and is being used as a storage shed and workshop by the Applicant. The Applicant plans to remove the existing shed and replace it with the proposed larger shed that is already partially constructed as shown on Attachment 7 to the Staff Report. The Applicant states that there is no other place on his property to locate the shed and does not feel as though any adverse impact would result from the shed at the proposed location. As to the fence, the Applicant proposes a 6-foot high stockade fence along Willoughby Beach Road. There is an existing chain link fence at that location now which is in disrepair. The Applicant stated that Willoughby Beach Road is heavily traveled and is very noisy.

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Additionally, his yard has no privacy whatsoever along Willoughby Beach Road. Lastly, because he has no basement, all of his tools and other home repair equipment is in the storage shed and he believes the fence will provide added security for these possessions as well as provide some screening for the shed. The Applicant did not believe any adverse impacts to adjoining or neighboring properties would result from either the fence or the shed.

The Department of Planning and Zoning, after investigation of the request herein, determined that the subject parcel is unique. The lot is part of subdivision created for duplex units. Two units share a common property line which allows each to have a rear and side yard. Because this particular parcel is on a corner, it is subject to two front yards. The shed is in the drainage and utility easement but meets the required 3-foot setback for such structures. The Department of Public Works was contacted and it has opined that encroachment into the easement as proposed is not objectionable so long as the Applicant agree to remove the shed if it is found that it contributes to a drainage problem in the future. Lastly, the Department opined that it did not foresee any adverse consequences to adjoining or neighboring properties that would result from approval of either the fence or the shed agreeing with the Applicant that privacy and noise are real concerns at this location that can be satisfied with a fence higher than the 4 feet allowed.

There were no persons who appeared in opposition to the request.

CONCLUSION:

The Applicant, Robert A. Chassereau, is seeking variances pursuant to Sections 267-26C(4), 267-26C(6) and 267-36B, Table VI, of the Harford County Code, to allow an existing shed within the required 25 foot front yard setback and within a recorded easement and a variance pursuant to Section 267-24B(1), to construct a fence higher than 4 feet (6 feet requested) in an R3 Urban Residential District.

Sections 267-26C(4) of the Harford County Code provides:

“No accessory use or structure shall be established within the required front yard, except agriculture, signs, fences, walls or parking area and projections or garages as specified in Section 267-23C, Exceptions and modifications to minimum yard requirements.”

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Section 267-26C(6) provides:

“No accessory use or structure, except fences, shall be located within any recorded easement area.”

Section 267-24B(1) provides:

“Fences and walls. Fences and walls may be located in required yards in accordance with the following:

- (1) Front yards. For single-family detached units, walls and fences shall not exceed four feet in height above ground elevation. Where fences and walls are an integral part of the unit design and are applied in a consistent and coordinated pattern throughout the project, fences and walls may be constructed to a maximum of six feet above ground elevation. For continuing care retirement communities, consistent and coordinated fencing or walls may be constructed to a maximum of eight feet above ground elevation provided strategically located gates are provided for emergency access.”**

The Harford County Code, pursuant to 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.**
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”**

The Hearing Examiner finds that the subject property is unique. It is constrained by two front yard setbacks because of its corner configuration and has a rather large swampy area to the rear that constrains an owner’s ability to utilize parts of the property. The shed and fence should not result in any adverse impacts nor will the purposes of the Code be impaired by an approval.

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The Hearing Examiner recommends approval of the requests subject to the following conditions:

1. The Applicant obtain any and all necessary permits and inspections.
2. The Applicant remove the existing metal shed and chain link fence along Willoughby Beach Road.
3. If at any time the Department of Public Works determines that the shed needs to be removed from the easement, the Applicant shall remove said shed at his own expense within the time specified by the Department of Public Works.

Date: JANUARY 30, 2002

William F. Casey
Zoning Hearing Examiner